

Application number: 09/534233

Art Unit: 3692

Applicant: Khai Hee Kwan

Examiner: Clement, B Graham.

Title: System and method for conducting an electronic financial asset deposit auction over computer network

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

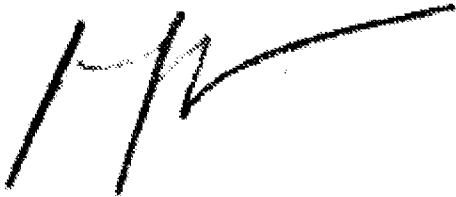
SUPPLEMENTARY APPEAL BRIEF

5 ATTEN: Board of Patent Appeals and Interferences

The following is the applicant's Supplementary appeal brief in response to the examiner's reopening of the prosecution. The appellant elects to reinstate the appeal and hence the
10 following supplementary brief will incorporate the examiner's latest action letter mailed Oct 9 2007. Thank you.

Yours truly,

15

A handwritten signature in black ink, appearing to be 'KH' followed by a stylized flourish.

Khai H Kwan Esq
Customer Number 023336

16 Nov 2007

REAL PARTY IN INTEREST

5 The real party in interest is the Applicant/Appellant, Khai Hee Kwan.

RELATED APPEALS AND INTERFERENCES

10 Nothing further within the BPAI. However for your information, a petition was submitted on the 21 Jan 2007 to the Petition Office in regards to the validity of USPTO charging 'additional' fee contrary to MPEP 1204.01. The applicant has on the 3 Feb 2007, paid the requested 'additional' fee under protest as per Electronic Acknowledgement Receipt
15 having EFS ID 1489117. A further petition on the same matter to the Director of Technology was also submitted April 2 2007 but todote no reply was acknowledged. The appellant has paid US 750 to date as compared to the standard US 500 fee prior to yearly increased in Sept.

20 STATUS OF CLAIMS

Claims 15-19 and 24-38 are rejected by the examiner under 35 USC 103(a) as obvious by
25 Madden US Publication 2002/0082981 and Franklin et al (US Patent 6055518). The claims 15-19 and 24-38 are subject of this appeal. Claims 1-14 and 20-23 are cancelled. No other claims are pending. A copy of said claims are contained in the APPENDIX .

STATUS OF AMENDMENTS

No amendment has been filed.

SUMMARY OF CLAIMED INVENTION

This invention was filed on March 24, 2000.

A. Claim 15 – Independent Method

The present invention features a computerized network method for allowing potential depositors to soliciting deposit terms from financial institutions in an Auction environment (Page 17 of Specification). The invention includes providing financial and non financial bids. (Page 2 of Specification)

The participants (potential deposit applicants) are anonymous using a handle (Page 9 line 18) and provide their deposit offers over a network accessible by the financial institutions. In responding to the offers, financial institutions (not anonymous) would provide their bids during a first period (Page 24 line 10-15). In the second period, the anonymous deposit applicant will select the financial institution to reveal their identit(ies) to. (Page 8 line 22).

Claim 34 - Independent System

This claim is directed to a system using ‘means’ which shares similar scope to Claim 15 and the summary of Claim 15 above is equally applicable. The means for receiving a deposit application can be found at page 6 line 10-15 of specification, the means for anonymity is found at page 7 line 1-5; including page 9 line 18 (providing handle) and page 14 line 5 (managing handle), the means for receiving a bid is found at page 8 line 5-

9; Bidder program at page 20 line 19; bid types in original claim 8 and means to reveal depositor's identity is found at page 7, line 1-5. In completeness, FIG 1 is a block diagram to implement the system of claim 34 see Box 30.

5

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

10 A. Whether the examiner's claim rejection under 35 USC 103(a) for Claim 15-19 and 24-38 as obvious by Madden (US Publication 2002/0082981) and Franklin et al (US Patent 6055518) is sustainable as per Action Letter mailed Oct 9 2007 (herein Action Letter).

ARGUMENT

5 *NOTE: The appellant respectfully ask the Board to verify the examiner's written claims' elements in Action Letter as it appears to have missing words or typo but generally different to what was amended as per submission July 2 2006. Therefore, appellant's submission will assume the text claims as per July 2 2006 (also restated in Appendix) as if amendments were incorporated as written and submitted.*

10 **A. Rejection under 35 USC 103(a)**

All claims rejections are traversed on the ground that Madden (US Publication 2002/0082981) is not a proper prior art. Madden has a filing a date of Dec 17 2001 as compared to this application's filing date of March 24, 2000. The appellant has already
15 sent two emails (Oct 20 2007 and 12 Nov 2007) to the examiner asking for corrections if any but has yet to receive any reply. However, it is noted that there is another Madden at US Patent 6363360 having a filing date of September 27, 1999. Assuming this is a typo on the examiner's part and without further delaying this 7 years old application, the appellant will appeal using the earlier Madden for this submission.

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Claims 15 is provided as below in tabled format for ease of reference.

Claim 15	Evidence from Examiner	Comment
A method for soliciting competitive terms of deposit operating on a deposit auction system, said system including a programmed computer connected to a network accessible by a plurality of users within a first selected period of time and anonymity means for concealing the identities of prospective depositors, the method executable at said computer comprising:	Note although the paras in Action Letter refers to Madden US Publication (2002/0082981), the appellant will read the same from US Patent 6363360 where the teaching appears almost or exactly the same.	deposit auction not shown

a) receiving a deposit application from a prospective depositor who is a respective one of the users offering money, securities or financial equivalent deposit offer terms;	para 0026, 0028, 0031 and 0035 in Madden teach writer offering a put option for Financial institution to sell its deposit liabilities and not the third party to offer it deposits.	deposit application, depositor making offer terms are not found.
b) assigning a handle to conceal a real identity of said prospective depositor and displaying said depositor's application anonymously;	Col 1 lines 58-67, col 2 lines 1-9 and col 10- lines 59-67 and col 11 lines 1-15 of Franklin.	Sealed bids could not be displayed in Franklin because the essence in Franklin is to protect these sealed bids from other bidders. It is unknown in the art to display content of a <u>sealed bid</u> .
c) receiving from at least one financial institution, who is a respective one of the users communicating over the network, at least a bid for said deposit application wherein said bid being deposit terms comprising at least one of: type of guarantees, payment schedule, deposit rate, securities in exchange or terms of exchange; and	para 0026, 0028, 0031 and 0035 in Madden, again it is the third party who is bidding (providing a price where the financial institution will be paid upon exercising its put option). This price is not a guarantee, payment schedule etc.	Madden shows third party providing bid and not financial institution as claimed.
d) receiving an electronic instruction from said prospective depositor, notifying and authorizing at least one selected financial institution to access a real identity and personal information of said prospective depositor for a second selected period of time.	Col 1 lines 58-67, col 2 lines 1-9 and col 10- lines 59-67 and col 11 lines 1-15 of Franklin.	Franklin teach the server (not depositor) selecting the bids and accordingly notify the winner.

Analysis of element (a) –depositor, application and bids.

- 5 Madden's evidence shows "The present invention is a system and method for analyzing and originating a contract wherein a third party (the "writer") agrees to offer a financial institution (the "purchaser") the right for a period of time to sell a fixed dollar amount of deposit liabilities to the writer at a predetermined price. The invention employs a

computer system to generate output regarding the subject deposits, which is then incorporated in contractual documents that specify the price the writer will pay during a predetermined term for the subject deposits (along with a corresponding amount of eligible assets at fair market value), which may be dependent on the exercise of a "put" at the option of the purchaser. “ at para 0026. It is clear the subject matter of Madden is in creating option contracts in this case a put option available to the Financial Institution a right to SELL to the writer of its deposits liabilities. However this claimed invention’s element requires the depositor to provide a deposit application offering money etc (wanting to deposit funds). There is nothing to suggest in Madden that the ‘writer’ is a depositor. In fact, this writer is looking to ‘buy’ the deposits if the Financial Institution exercise the option so how could this writer be depositing ? The examiner had not reasoned how one skilled in the art would see a writer of put option to buy deposit liabilities is inherently the same as a prospective depositor who is interested in soliciting the best return for his deposits by auction means.

Madden provides Para 0028 provides a different embodiment of his invention. It says “In one preferred embodiment of the invention, a method is employed for analyzing the value of a deposit liabilities base associated with a financial institution and for originating contractual documents through which the financial institution obtains the right to sell the deposit liabilities base to a third party at a predetermined price. External market data, and internal data pertaining to the financial institution, is analyzed and input to a computer system. An estimated market value or a range of such values is then calculated for the deposit liabilities base. Next, a minimum potential bid price or a range of such prices is generated for the deposit liabilities base. These generated prices are then incorporated into the contractual documents, which specify the price or range of prices which the third party will pay during a predetermined term for the deposit liabilities base.”

Similarly, it is submitted there is no teaching at all to show depositor offering deposit application to financial institution and soliciting highest return by auction. Para 0028 merely teach using external/internal data about the Financial Institution is required which provides some values to price the deposit liabilities which is already deposited in the

5 Financial Institution and not as claimed to offer such deposits.

Madden in para 0031 and 0035 “In an alternative preferred embodiment, a method using a computer system is employed for analyzing the value of a deposit liabilities base associated with a financial institution. In this embodiment, the financial institution seeks

10 to obtain the right to substitute other deposit funds not originally included in the subject deposit liabilities base. Contractual documents are originated through which the financial institution obtains the right to sell the deposit liabilities base to a third party at a predetermined price. First, external market data, and internal data pertaining to the financial institution, is analyzed and input to the computer system. Next, an estimated

15 market value or a range of such values for the deposit liabilities base is calculated, and minimum potential bid price(s) are generated. These bid price(s) are incorporated into the contractual documents, which specify the price or range of prices which will be paid during a predetermined term for the deposit liabilities.” while as para 0035 deals with internal parameters of the deposits in the financial institution.

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It is clear the above teaching deals with the financial institution wanting to originate an option that has the right to substitute other deposit funds and not as claimed (ie depositor).

25 The appellant respectfully submits element (a) has not been taught by Madden.

Analysis of element (b) –assignment of handle and displaying application anonymously.

Madden does not teach this element but the examiner suggest Franklin shows this and
5 provided Col 1 lines 58-67, col 2 lines 1-9 and col 10- lines 59-67 and col 11 lines 1-15.
The examiner quoted Madden “Moreover, it should be possible for bidders to submit
anonymous bids”.

The security issues discussed in Franklin were to preserve secrecy of sealed bids prior to
10 close of auction to prevent insiders collaborating with bidders. While Franklin taught of
anonymity but this is only done PRIOR to bidding (Col 10 line 44).

There is nothing in the claimed invention to show a need to preserve secrecy of sealed
bids prior to close of auction to prevent insiders collaborating with bidders. In fact this
15 element is not related to any bidders at all, but merely deposit applicants displaying their
application anonymously for the Financial Institution to bid. On the contrary, Sealed Bids
in Franklin means the bids are unknown until bidding is closed but in the claimed
invention these applications which includes the bids are “DISPLAY” and anonymous.
Hence, it is clear Franklin could not have taught displaying application (of sealed bids)
20 anonymously. Even assuming the financial institutions are bidding here (which is denied
as this is actually in element (c) see below), there is nothing to show financial institution
need to provide a sealed bid nor is it anonymous as compare to the prospective
depositors.

Analysis of element (c) – Financial Institution bid for said deposit application - type of guarantees, payment schedule, deposit rate, securities in exchange or terms of exchange

- 5 It is respectfully submitted that Madden fails to show the Financial Institution providing any bids at all. Para 0026, 0028, 0031, 0031 and 0035 all shows a third party providing a bid to the Financial Institution in order for the Financial Institution to buy a put option to enable said Financial Institution sell its deposit liabilities at a price to the third party upon exercise. Even if there is any bidding, there is no teaching in Madden to bid for deposits.

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Analysis of element (d) - receiving an electronic instruction from said prospective depositor, notifying and authorizing at least one selected financial institution to access a real identity and personal information of said prospective depositor for a second selected period of time.

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Franklin in Col 10 line 49 –54 says Auction Server *i* announced winner. It also says that in anonymous mode, the Server actually does not even know the identity of the Winner at all. In the claimed invention, depositor (by notifying) the financial institution (winner) to whom it wants to reveal its identity (by authorizing its release). Even if the identity is preserved in the digital coin it needs the co-operation of the issuing bank to identify the winner in Franklin. (Col 11- line 1-15). Clearly Franklin made no teaching to allow an entity to self-reveal its identity to the selected winner chosen by said entity which is different from saying selecting a winner by server and knowing who the winner is. Furthermore, in the claimed invention, the entities (Financial Institutions) being selected are not anonymous, it is only the depositors (selector) that are anonymous. In Franklin, the bidders (being anonymous) are being selected by auction server on behalf of the selector (offeror of item for auction) who is not anonymous. So it is actually a reversal of

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positions and hence it is submitted Franklin could not have taught this element.

Apparent Reason for combine

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Madden's invention concerns the analyzing and originating of a contractual option arrangement for a bank deposits liabilities base. Madden fails to "receiving instruction from the prospective depositor, notifying and authorizing at least one selected financial institution to access a real identity and personal information of said prospective depositor for a second selected period of time and assigning a handle to conceal to conceal to broker a real identity of the said prospective depositor displaying said depositor's application anonymously" and the examiner's asserts that Franklin shows the missing elements whereby Madden would be modified "in order to provide a secure distributed auction service that supports the submission of monetary bids for an auction and ensures the validity of the outcome, despite the malicious collaboration of arbitrarily many bidders" (Action Letter page 4).

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The standard for obviousness is an apparent reason to combine which must be articulated by the examiner. The appellant respectfully submits that in Madden, there is only "third party" providing an offer/bid of a put option to the financial institution and not a depositor offering deposits to the financial institution by asking for bids. This by itself is sufficient to show Madden fails to teach the subject matter as a whole.

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Even if the appellant is wrong, there is no teaching to show why a financial institution would want to modify its offering deposit liabilities for sale from an option instrument to an auction such that there is a need for a secure distributed service. Franklin teaches a specific problem that is to prevent an insider from tampering bids or helping bidders in a sealed auction. There is no suggestion of an auction at all in Madden. There is no such auction in Madden where a third party merely originate a put option contract with a range

of price for the financial institution to sell its deposit liabilities. Would an auction help in lieu of a one to one bid effort by the third party ? The examiner did not provide an apparent reason here. Would a creative skilled artisan consider using an auction ? The examiner also failed to show why one skilled in the art would consider Franklin's secure distributed auction service for submitting a bid for an option contract from ONE third party writer as taught by Madden. It is clear for an auction to be apparent, there must be essentially be a number of bidders for the same item which is not found in Madden. The reason for this is unique to originating off-market options where the "item" for sale is not fungible or standard. The third party is merely bidding for the deposit liabilities in accordance to his own requirements (different from each parties) which also sets the price (premium) for the option. It is also unknown in the art to originate an option by way of auction. It is well known that standard options are traded on an exchange or else created individually on a willing writer and buyer basis. Therefore, it is also submitted that even before considering "secure distributed auction service", there is no reason place on record to modify to an auction in the first place which shows the obviousness rejection is unsustainable.

To modify an option contract based on one to one bidding to auction based to sell its deposit liabilities will mean rewriting what Madden has not taught which is not obvious in light that this is a conditional sale (Col 5, line 53) and not a direct sale modifiable by auction means.

Even if the appellant is wrong which is denied, the combination of Madden and Franklin would result in third parties bidding in an auction to offer/originate put option to the financial institution and not as claimed where depositors are offering deposits to the Financial institutions to bid, which is a complete reversal of roles. Therefore, the combination fails to show the claim as a whole and respectfully the rejection must be withdrawn.

Claim 16

This claim which is dependent on claim 15 refers to the element “step of receiving from said prospective depositor communicating over the network, an electronic instruction
5 selecting at least one of responsive financial institutions bided for said depositor’s application”

This claim is dependent on claim 15 which the appellant already submitted is not obvious. As mentioned in Franklin (see above element (d) of claim 15), it is auction
10 server that selects and not the prospective depositor. The examiner provided col 8 lines 27-67, col 9 lines 1-67 and col 10, lines 1-7 and col 15 lines 45-67 and col 16 lines 1-45 and col 5 lines 10-30 in Madden. (at page 4 of action letter)

As mentioned, there are 3 publications of Madden, ie US Patent 6363360, Madden (US
15 Publication 2002/0082981) and US Patent 7117177. Out of this 3 documents, only US Patent 6363360 has the earliest filing date which can only be considered. The examiner’s usage of Cols and Lines must therefore from the US Patent 6363360.

Using US Patent 6363360, it is respectfully submitted that col 8 lines 27-67 fails to show
20 the claimed element. Col 9 in Madden ends at line 7 and fails to show the claimed element. It is the same with Col 10, lines 1-7. It is also submitted there is no cols 15 and 16 in Madden. As for Col 5 lines 10-30, it clearly shows generating data range for the option to price the deposit liabilities and not this claimed element.

25 As for the second part “assigning a handle to conceal to broker a real identity of the said prospective depositor”, the appellant submits there is no such element in claim 16 and unsure where the examiner had obtained this.

The appellant also notes that the cited referenced columns above resembled those as in Action Letter mailed Sept 26 –2006 but which referenced another prior art namely Walker at page 3 of said Sept-2006 Action Letter, perhaps a coincidence.

5 Claim 17

This claim which is dependent on claim 15 refers to the element “verifying the ownership of said money, securities or financial equivalent as subscribed by said prospective depositor”

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The examiner provided Col 3 para 0026, 0028, 0031 and 0035 and col 4 from Madden.

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Assuming the evidence is from US Patent 6363360, it clearly fails to show any verification of ownership by prospective depositor. In Madden, the deposits are already placed in the financial institution while this claim requires verifying ownership of said items of PROSPECTIVE depositor. This means there is no deposits placed as yet which has to be verified of its ownership.

Claim 18.

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This claim which is dependent on claim 15 refers to the element “maintaining data representative of bids for the prospective depositor’s application in a database accessible to users over a network, said data comprising depositing terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms of exchange information on each of a plurality of submitted responsive bids.”

Although the examiner has grouped this claim with 15, the examiner provided no specific evidence to show how Madden meets this and therefore this rejection is unsustainable.

The crux of this element is the bids are stored in a database accessible to users over a network (emphasis mine). Madden clearly did not teach such data is accessible to users and neither did Franklin considering it has to seal its bids which is obviously contrary to giving access to users.

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Claim 19

This claim which is dependent on claim 15 refers to the element “adapted to further promote a completely anonymous deposit auction, comprising :

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assigning a handle to conceal a real identity of said financial institution. “

The examiner provided no specific evidence from Franklin nor Madden to show both offerer and bidders are anonymous. Therefore, this claim rejection is also unsustainable.

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Claim 24

This claim is of a different class to claim 15. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action Letter page 4)

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In addition to the previous rebuttal for claim 15, the appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide an apparent reason to combine in an obviousness rejection.

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Claim 25

This claim is of a different class to claim 16. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action

5 Letter page 4)

In addition to the previous rebuttal for claim 16, the appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide an apparent reason to combine in an obviousness rejection.

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Claim 26

This claim is of a different class to claim 17. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action

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Letter page 4)

In addition to the previous rebuttal for claim 17, the appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide

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an apparent reason to combine in an obviousness rejection.

Claim 27

This claim is of a different class to claim 18. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action

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Letter page 4)

In addition to the previous rebuttal for claim 18, the appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide an apparent reason to combine in an obviousness rejection.

5 Claim 28

This claim is of a different class to claim 19. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action Letter page 4)

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In addition to the previous rebuttal for claim 19, the appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide an apparent reason to combine in an obviousness rejection.

15 Claim 29

This claim is of a different class to claim 15. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action Letter page 5)

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In addition to the previous rebuttal for claim 15, the appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide an apparent reason to combine in an obviousness rejection.

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Claim 30

This claim is of a different class to claim 16. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action

5 Letter page 5)

In addition to the previous rebuttal for claim 16, he appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide an apparent reason to combine in an obviousness rejection.

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Claim 31

This claim is of a different class to claim 17. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action

15 Letter page 5)

In addition to the previous rebuttal for claim 17, the appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide an apparent reason to combine in an obviousness rejection.

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Claim 32

This claim is of a different class to claim 18. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action

25 Letter page 5)

In addition to the previous rebuttal for claim 18, the appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide an apparent reason to combine in an obviousness rejection.

5 Claim 33

This claim is of a different class to claim 19. The examiner provided that this claim is obvious in view of Madden Col 3, para 0026, 0028, 0031 and 0035 and col 4. (Action Letter page 5)

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In addition to the previous rebuttal for claim 19, the appellant respectfully submits that the evidence above fails to show the claimed element. The examiner also fails to provide an apparent reason to combine in an obviousness rejection.

15 Claim 34

Claims 34 is an independent system claim using means plus elements which are found in independent method claim 15.

20 Understandably, claim 34 also has 4 elements as above in 15.

Element (a) – means for receiving a deposit application from a prospective depositor who is a respective one of the users offering money, securities or financial equivalent deposit offer terms;

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The examiner states that this element is met by Madden and provided Col 3, para 0026, 0028, 0031 and 0035 and Col 4. As stated previously only US Patent 6363360 by Madden is a qualified prior art and will be used in this rebuttal. Madden teaches a third

party originating a put option contract for the financial institution to sell its deposit liabilities. Madden also teach how the pricing of this option is done. This third party is not a depositor is obvious and it is not offering money, securities or financial equivalent deposit offer terms. This third party is merely offering to buy the deposits if Financial
5 institution exercise the option to sell to it. Hence this element is not taught by Madden.

Element (c) - means for receiving from at least one financial institution, who is a respective one of the users communicating over the network, at least a bid for said deposit application offer wherein said bid being depositing terms comprising at least one
10 of : type of guarantees, payment schedule, deposit rate, securities in exchange or terms of exchange; and

Similarly, the examiner provides Madden teaches element (c) in Col 3, para 0026, 0028, 0031 and 0035 and Col 4. Respectfully, the appellant submits it does not show the
15 financial institution submitting a bid.

The examiner states that Franklin shows the remaining elements (b) and (d). The evidence is provided at col 1 lines 58-67 and col 2 lines 1-9 and col 10 lines 59-67 and col 11 lines 1-15. This evidence is similarly submitted to reject earlier in Claim 15. The
20 appellant repeats and submits the argument placed for claim 15 at pages 5-12 above.

The examiner identifies the apparent reason for combining as “in order to provide a secure distributed auction service that supports the submission of monetary bids for an auction and ensures the validity of the outcome, despite the malicious collaboration of
25 arbitrarily many bidders”. (page 6 of Action Letter)

The appellant respectfully submits the above reason fails to reveal an apparent reason to combine as there is no other bidders in Madden, neither is there any malicious

collaboration of any kind since the origination of a put option contract is by one to one basis. In addition given this is the same reason as provided for Claim 15 above, the appellant respectfully repeats the same rebuttal as above in Claim 15.

5 Claim 35,37,38

Claim 35, 37 and 38 actually correspond to claim 16, 18,19 and therefore we submit the same rebuttal as above found in claim 16,18,19. It should be noted the examiner also fails to provide specific evidence to reject these claims and hence on this alone, the claims
10 should be allowed.

Claim 36

Applicant respectfully disagrees with the Examiner's assertion that this feature is
15 old and well known in the art. The examiner does not cite any references or publication nor does the examiner provide any other evidence to support this contention. The examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art. *In re Ahlert*, 57 C.C.P.A. 1023, 424 F.2d 1088, 1091, 165 USPQ
20 418, 420 (CCPA 1970) ... When a rejection is based on facts within the personal knowledge of the examiner, the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the applicant and other persons. See 37 CFR 1.104(d)(2).

25

To date, the examiner had not produced any affidavit or documents supporting this rejection. Furthermore, the elements require the verification of the ownership of said money, securities or financial equivalent as subscribed by prospective depositor. The key

word is prospective depositor wherein these 'documents' may not be presented for a physical inspection so to see names and numbers and date acquired.

5 Lastly, even if Madden teach of verifying deposits which is denied, it only shows verifying the deposits already placed with the financial institution and not as claimed: financial assets by prospective depositor which are clearly undeposited as yet.

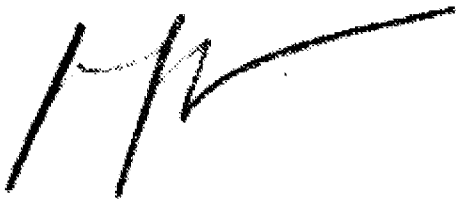
The appellant respectfully submits this rejection is unsustainable and therefore be reversed.

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In summary for all the above argument, it is submitted that the examiner had not established prima facie obviousness.

15 It is therefore respectfully request that the Board reverses the rejections for claims 15-19 and 24-38.

Yours truly,

A handwritten signature in black ink, appearing to be 'KHAI KWAN', with a stylized, sweeping flourish extending from the end.

20 Khai Kwan

Appellant/Applicant

Appendix

Text of Claims as per this Appeal.

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15. A method for soliciting competitive terms of deposit operating on a deposit auction system, said system including a programmed computer connected to a network accessible by a plurality of users within a first selected period of time and anonymity means for concealing the identities of prospective depositors, the method executable at said computer comprising:

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a) receiving a deposit application from a prospective depositor who is a respective one of the users offering money, securities or financial equivalent deposit offer terms;

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b) assigning a handle to conceal a real identity of said prospective depositor and displaying said depositor's application anonymously;

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c) receiving from at least one financial institution, who is a respective one of the users communicating over the network, at least a bid for said deposit application wherein said bid being deposit terms comprising at least one of: type of guarantees, payment schedule, deposit rate, securities in exchange or terms of exchange; and

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d) receiving an electronic instruction from said prospective depositor,

notifying and authorizing at least one selected financial institution to access a real identity and personal information of said prospective depositor for a second selected period of time.

5 16. The method according to claim 15, further comprising a step of receiving from said prospective depositor communicating over the network, an electronic instruction selecting at least one of responsive financial institutions bided for said depositor's application.

10 17. The method according to claim 15, includes a step of verifying the ownership of said money, securities or financial equivalent as subscribed by said prospective depositor .

15 18. The method according to claim 15, further comprising a step of maintaining data representative of bids for the prospective depositor's application in a database accessible to users over a network, said data comprising depositing terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms of exchange information on each of a plurality of submitted responsive bids.

20 19. The method according to claim 15, adapted to further promote a completely anonymous deposit auction, comprising :

assigning a handle to conceal a real identity of said financial institution.

24. A deposit auction system including a computer connected to a network programmed to perform the method of Claim 15.

5 25. A deposit auction system including a computer connected to a network programmed to perform the method of Claim 16.

26. A deposit auction system including a computer connected to a network programmed to perform the method of Claim 17.

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27. A deposit auction system including a computer connected to a network programmed to perform the method of Claim 18.

15 28. A deposit auction system including a computer connected to a network programmed to perform the method of Claim 19.

29. Computer executable software code stored on a computer readable storage medium implementing the method of claim 15.

20 30. Computer executable software code stored on a computer readable storage medium implementing the method of claim 16.

31. Computer executable software code stored on a computer readable

storage medium implementing the method of claim 17.

32. Computer executable software code stored on a computer readable storage medium implementing the method of claim 18.

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33. Computer executable software code stored on a computer readable storage medium implementing the method of claim 19.

34. A deposit auction system for soliciting competitive terms of deposit
10 connected to a network, said network comprising at least one client computer and a programmed computer further comprising a database of deposit applications, said network accessible by a plurality of users within a first selected period of time, comprising:

15 a) means for receiving a deposit application from a prospective depositor who is a respective one of the users offering money, securities or financial equivalent deposit offer terms;

b) anonymity means for assigning a handle to conceal a real identity of
20 the said prospective depositor for displaying said depositor's application anonymously;

c) means for receiving from at least one financial institution, who is a respective one of the users communicating over the network, at least a bid

for said deposit application offer wherein said bid being depositing terms comprising at least one of : type of guarantees, payment schedule, deposit rate, securities in exchange or terms of exchange; and

- 5 d) means for receiving an electronic instruction from said prospective depositor, notifying and authorizing at least one selected financial institution to access a real identity and personal information of said prospective depositor for a second selected period of time.

- 10 35. The system according to claim 34, further comprising means for receiving from deposit applicant communicating over the network, an electronic instruction selecting at least one of responsive financial institutions bided for said prospective depositor's application.

- 15 36. The system according to claim 34, further comprising means for verifying the ownership of said money, securities or financial equivalent as subscribed by prospective depositor .

- 20 37. The system according to claim 34, further comprising means for maintaining data representative of bids for the prospective depositor's application in a database accessible to users over a network, said data comprising depositing terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms of exchange information on each of a plurality of submitted responsive bids.

38. The system according to claim 34, adapted to further promote a completely anonymous deposit auction, by including means for assigning a handle to conceal a real identity of said financial institution.

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Application number: 09/534233

Art Unit: 3692

Applicant: Khai Hee Kwan

Examiner: Clement, B Graham.

Title: System and method for conducting an electronic financial asset deposit auction over computer network

Evidence Appendix

NONE

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Related Proceedings Appendix

NONE